



General Assembly

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Human Rights Council

Thirty-first session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Global Network for Rights and Development (GNRD), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).



Written statement on children and armed conflict

The Global Network for Rights and Development welcomes the panel on children and armed conflict as a valuable opportunity to address the multiple threats and challenges affecting children in armed conflict. The commitment of the UN High Commissioner for Human Rights and that of the Human Rights Council are key to protect children from humanitarian disasters, as it is war. From these lines, GNRD highly appreciates Ms. Leila Zerrougui, UN Special Representative for Children and Armed Conflict, all her efforts to protect children from violence. We are pleased to see the outcome of her work while we encourage her to continue working with such determination.

Recent research conducted by some of the most prestigious universities of the world has showed the importance of secure environments and supportive relationships for children's healthy development¹. Children who have solid relationship with their parents are more capable of controlling their own emotions, learn through the experience and cope with difficulties when they arise. In this sense, when children feel safe and grow in a conflict free environment, they are enabled to play without worries, to explore and try new things. By helping children feel safe, we prepare them to be the future of humanity with all the responsibility this implies.

In this context, we would like to draw the attention of the Human Rights Council to the more than 5 million children who are living in dire situation in Syria. Since the beginning of the conflict, Syrian children have been the subject of threats and violence. As of June 2015, the United Nations reported that 10,000 children have been killed in the Syrian civil war, and verified 2,107 grave violations by all parties to the conflict in major urban and rural areas². One of the most flagrant abuses included the recruitment and use of children in combat as soldiers or human shields. This has become one of the most common and abusive practices of Daesh, which as a method of training and indoctrination, is reported to have used rape, torture and corporal punishment with children.

Under these circumstances, we believe it is important to state that the recrudescence of the war is the main responsible for the humanitarian crisis that is affecting Syria. After five years of conflict, the estimate number of Syrian children in need of assistance increased to 7.5 million, plus over 2 million who were forced to sought refuge in neighboring countries, struggling to meet basic needs. Their road to freedom is long and harsh, and sometimes, children have no option but to start the journey on their own after having lost relatives and friends. According to UNICEF, 25,000 unaccompanied children arrived in Europe in 2014, while 12,000 tried to reach Europe without any of their parents until September 2015³. Since the war started, more than 10,000 unaccompanied refugee children have disappeared in Europe⁴, the EU police agency Europol said in late January. Policemen are concerned they have been victims of sex trafficking and slave trade.

In terms of preparation, the United Nations Children's Fund revealed that war reversed 10 years of progress in education in Syria, and the total number of children who are not attending school recently reached the amount of 3 million. Thus, at least 25% of the schools in Syria have been seriously damaged or totally destroyed, occupied by internally displaced families or used for military purposes, according to recent reports, which also reveal that repairing Syria's devastated education sector would need approximately 3 billion Euro. School enrolment rates in the country also decreased to an average of 50%, down from previous levels in which basic education enrolment ratio was close to 100%. In fact, areas such as Aleppo, which has been shattered by the war, the enrolment level decreased to a 6% with more than one million children out of school⁵.

However, despite all the chaos there is still hope in addressing the presumably high illiteracy rates amongst Syrian children. From the standpoint of the Global Network for Rights and Development, the measure taken by the governments of Lebanon, Egypt, Turkey and Jordan, in which they help to provide Syrian child refugees with formal education, could be set as an example of solidarity and support to a long-suffering people. Late in January, for example,

¹ <http://jfs.ohio.gov/octf/Supporting-Healthy-Relationships-Between-Young-Children-and-.pdf>

² <https://childrenandarmedconflict.un.org/countries/syria/>

³ http://www.unicef.org/publicpartnerships/files/Refugee_and_migrant_children_in_Europe_-_Sept_2015.pdf

⁴ <http://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees>

⁵ <http://static.guim.co.uk/nl/1427711553264/Save-the-Children-Cost-of-W.pdf>

the Lebanese government announced they took 207,000 Syrian refugee children off the streets and gave them places in their country's public schools thanks to a double-shift school system⁶. Whilst local Lebanese children would continue to be educated in the morning, the same classrooms where they study will be available to refugee children in the afternoon. From these lines, GNRD would also like to refer to the Convention on the Rights of the Child of 1989, which establishes global standards to ensure the protection, survival, and development of all children, without discrimination. Despite the Convention details that States Parties must ensure that all children benefit from special protection measures and assistance, including access to education and health care.

As a response to the humanitarian crisis which is affecting not only Syria but the rest of the world, the Global Network for Rights and Development started a project in Europe almost one year ago, which consisted of doing research and helping the people who fled war zones in Syria, distributing relief items amongst them, and documenting all the humanitarian aid donated by individuals and other humanitarian support groups. Following this project, GNRD is currently building up a pan-European relief effort for Syria's displaced persons and Syrian refugees abroad in partnership with the Union of Syrians Abroad voluntary organisation.

As the conflict continues unabated towards its sixth year, the needs of Syrian citizens seeking refugee in Europe and elsewhere have multiplied lately, including the ones of children. GNRD is concerned that they might be the forgotten victims of the conflict. We believe it would not be fair for them to be only in the spotlight after drowning in the coasts of Europe trying to escape from the horrors of war. What Syrian children need is a safe environment to grow and a chance to play and go to school, and it is the State's and the international community's duty to cover their basic needs, as it is conveyed in the Convention on the Rights of the Child.

Therefore, and accordingly, we at the Global Network for rights and development calls upon the state parties to:

- Make bigger efforts in the protection of Syrian children while they are in their territory.
- Guarantee all the rights enshrined in the Convention on the Rights of the Child of 1989, regardless the circumstances.
- Contribute to family reunification in the event of identifying unaccompanied children established within their territory.
- Design and implement strategies with the aim to integrate children and their families in the society.
- Ensure that the principle of non-refoulement is respected.
- Strengthen their joint responses to the global refugee crisis.

⁶ http://www.huffingtonpost.com/sarah-brown/a-business-plan-for-the-s_1_b_9039992.html



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Written statement* submitted by The Article 19 - International Centre Against Censorship, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[18 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Human Rights Council Resolution 16/18: Consolidating Consensus Through Implementation

What is Resolution 16/18?

Human Rights Council (HRC) Resolution 16/18 addresses 'combating intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence, and violence against persons based on religion or belief', and was adopted by consensus in March 2011. It is widely regarded as a landmark achievement of the HRC's first decade.

Resolution 16/18 commits States to addressing religious intolerance through promoting the interrelated and mutually reinforcing rights to freedom of expression, freedom of religion or belief, and non-discrimination.

To do this, it sets out an action plan for States to:

- (a) Create collaborative networks to build mutual understanding, promoting dialogue and inspiring constructive action in various fields;
- (b) Create a mechanism within Governments to identify and address potential areas of tension between members of different religious communities, and assisting with conflict prevention and mediation;
- (c) Train Government officials in effective outreach strategies;
- (d) Encourage efforts of leaders to discuss within their communities the causes of discrimination, and evolve strategies to counter them;
- (e) Speak out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence;
- (f) Adopt measures to criminalise incitement to imminent violence based on religion or belief;
- (g) Combat denigration and negative religious stereotyping of persons, as well as incitement to religious hatred, including through education and awareness-building;
- (h) Recognise that the open, constructive and respectful debate of ideas plays a positive role in combating religious hatred, incitement and violence.

Every year since 2011, the HRC has adopted follow-up resolutions to 16/18 by consensus (most recently Res 28/29). This includes positive references to the OHCHR's Rabat Plan of Action, which provides authoritative legal and practical guidance on implementing States' obligation under Article 20(2) of the International Covenant on Civil and Political Rights (ICCPR) to prohibit "any advocacy of national, racial or religion hatred that constitutes incitement to hostility, discrimination or violence".

The primary role of counter-speech

Resolution 16/18 rests on the rationale that, as a default, more expression is the best antidote to intolerance, coupled with policies and laws to tackle the root causes of discrimination. This is also the crux of the Rabat Plan of Action.

Positive and non-coercive measures have a key role to play in creating a climate for dialogue, including on sensitive issues, as indicated in Seven of the eight "action points" of the resolution. Limitations on freedom of expression are foreseen, but only as an exceptional measure in very narrowly defined circumstances. Where less restrictive means of addressing intolerance are available, they should be fully employed first. This speaks against the tendency of certain States to respond to real, or perceived, religious tensions by restricting civic space.

Multiple stakeholders have an important role to play in "changing hearts and minds" and promoting mutual understanding within and between groups. The Rabat Plan of Action identifies national human rights institutions, civil society, independent media and a free and open Internet in this regard, notably referencing the Camden Principles on Freedom of Expression and Equality.

The "defamation of religion" question

Resolution 16/18 reconciled increasingly polarised views on the best way to tackle intolerance and discrimination on the basis of religion or belief, and replaced divisive calls at the HRC (and the Commission before it) for States to combat "defamation of religions", a concept analogous to "blasphemy".

International law protects rights as they attach to people: the right of individuals to hold opinions and express ideas of all kinds, and the right to have, adopt and manifest a religion or belief. It does not allow States to restrict expression to protect religions, beliefs or ideas themselves. While international law requires States to prohibit discrimination against people on the basis of their religion or belief, it does not entitle individuals to have their religion, beliefs, opinions or ideas protected from scrutiny, debate, insult or even ridicule. This does not constrain individuals from speaking out against expression that they find offensive, as this too is their protected right.

International standards clearly require the repeal of blasphemy laws. The UN Special Rapporteur on freedom of religion or belief has repeatedly called for this, citing both the Rabat Plan of Action and the Human Rights Committee's General Comment No. 34, as have UN and regional free expression mandates. They observe that such laws are discriminatorily applied against religion or belief minorities and dissenters and limit open debate, and therefore counter-productive to advancing mutual understanding. Instead, blasphemy laws fuel discrimination, incitement to violence, as well as acts of violence by State and non-State actors.

It is imperative that the HRC guards against the return of the "defamation of religion" concept in any form: it runs contrary to established international standards, and could reopen the ideological fracture bridged by resolution 16/18. Such a fracture would greatly undermine the credibility of the institution as a platform for action against human rights abuses.

Limiting expression: an exceptional measure of last resort

Paragraph 5(f) of Resolution 16/18 represents a consensus in favour of States criminalising incitement to imminent violence on the basis of religion or belief, and echoes States' broader obligations under Article 20(2) ICCPR to prohibit "any advocacy of racial, national or religious hatred that constitutes incitement to hostility, discrimination or violence." However, the scope of these commitments and obligations (respectively) remains a contentious issue at the HRC.

The Rabat Plan of Action makes clear that limitations under Article 20(2) ICCPR must also meet the three-part test under Article 19(3) of the ICCPR, i.e. must be (a) legally precise, (b) pursue a legitimate aim, and (c) be necessary and proportionate to that aim. It proposes a high "threshold test" with six-factors to help prosecutors and judiciary identify where prohibitions may be justified, including: (i) the social and political context, (ii) the speaker, e.g. his or her status and influence, (iii) the intent of the speech, (iv) the content or form of the speech, (v) the extent of the speech, and (vi) the likelihood and imminence of actually causing harm.

By insisting on this high threshold, the Rabat Plan of Action identifies and safeguards against two kinds of human rights abuse that arise in the context of applying incitement laws:

- Impunity for actual advocacy of discriminatory hatred that constitutes incitement to an imminent prohibited outcome (a particular problem where minorities are targeted);
- The overbroad application of "incitement" provisions, that are often too vague, against the groups they are designed to protect, notably religion or belief minorities or dissenters, including atheists, agnostics and converts.

In implementing resolution 16/18, States must commit to ensure accountability for these human rights violations.

Implementation is key: the Istanbul Process

The Istanbul Process is a series of inter-governmental meetings, initiated in 2011, to promote and guide implementation of resolution 16/18. It has enormous potential to be a cross-regional, inclusive, and participatory forum for exchanging best practices in tackling intolerance on the basis of religion or belief.

Fulfilling this potential requires there to be a greater diversity of participant States in the Istanbul Process, in particular of host nations. Representation should be drawn from domestic government ministries and agencies whose mandates

encompass public efforts to tackle discrimination: these individuals hold the practical experience which would make the exchange most valuable. This would be enhanced further by a multi-stakeholder approach, seeking meaningful exchanges of views and approaches with civil society, national human rights institutions, the media and others. A practical and practitioner-focused agenda would catalyse implementation efforts, including by encouraging innovation and cross-border collaborations.

Reporting through OHCHR on implementation of resolution 16/18 would also be reinvigorated by broader participation, from both State actors and other stakeholders.

Recommendations

For States to consolidate consensus on resolution 16/18 through implementation:

- Adopt national implementation plans that reflect the objectives and standards of resolution 16/18 and the Rabat Plan of Action as a whole, with the full and effective participation of all stakeholders;
- Reinvigorate and participate in the Istanbul Process to make it a cross-regional, participatory and regularly-convened forum, with a focus on multi-stakeholder exchanges of "best practices" at the practitioner level, inclusive of relevant domestic and local government officials, independent civil society, media, National Human Rights Institutions and other interested participants;
- Contribute to OHCHR reports on the implementation of resolution 16/18, with a focus on practical lessons learned at the domestic level, and seek broader stakeholder input to this process, including from civil society;
- Proactively engage with the Universal Periodic Review and with other HRC mechanisms, in particular the special rapporteurs on freedom of religion or belief and on expression, to further the implementation of resolution 16/18 and the Rabat Plan of Action;
- Ensure that the rights to freedom of religion or belief, freedom of opinion and expression, and non-discrimination, are fully guaranteed in line with international standards in law and practice;
- Recognise the importance of civic space to maximise robust debate and dialogue, including through a free and open Internet, to effectively address the root causes of intolerance and discrimination;
- Ensure that prohibitions on "incitement", implementing resolution 16/18 para 5(f) and Article 20(2) of the ICCPR, are an exceptional and last resort measure that meet international standards, including the "high threshold" for limitations on expression set out in the ICCPR and Rabat Plan of Action, and safeguard against their abuse;
- Repeal blasphemy laws and their equivalents, in recognition of their incompatibility with international human rights law, and resist attempts to legitimise such measures at the HRC or other fora;

For all other stakeholders:

- National Human Rights Institutions, independent civil society and media, religious and political leaders, educators and others should consider the Camden Principles on Freedom of Expression and Equality, resolution 16/18 and the Rabat Plan of Action, in formulating and implementing their own activities to address religious intolerance and discrimination;
- Seek to critically engage with States on their implementation of resolution 16/18 and the Rabat Plan of Action, both at the domestic level and at the international level, including through the Istanbul Process and HRC special procedures.



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Human rights situations that require the Council's attention

Written statement* submitted by People for Successful Corean Reunification, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).



North Koreans Abroad: Labor Rights and the Democratic People's Republic of Korea

People for Successful COrean REunification (PSCORE) has prepared the following written statement related to Human Rights in the Democratic People's Republic of Korea (DPRK) for the United Nations Human Rights Council (UNHRC) related to items three and four on the standing agenda. The UN Security Council and International Community has recognized, documented, and sought to address the atrocious human rights violations in the DPRK, culminating in an extensive report in 2014 released by the Commission of Inquiry on Human Rights in the DPRK and stricter sanctions targeting the DPRK government. However, PSCORE urges the UNHRC and member states to address a related and pressing matter: labour rights violations committed by the DPRK in the territories of an estimated 16 participating states. Coercively exporting around 100,000 of its citizens as migrant workers, primarily to Russia, China, the Middle East, and Southeast Asia, but also to European countries like Poland and Malta, the DPRK effectively evades targeted sanctions and violates international labour laws. This is a matter that PSCORE urges the UNHRC and member states to address immediately. This statement begins by contextualizing these labour rights violations within an international law framework, then presents a more detailed description of specific violations, and ends with recommendations for the UNHRC and member states.

International Law

The DPRK's export of workers abroad is in violation of both UN Security Council resolutions and international labour and human rights laws.

Recently, in response to its attempts to develop nuclear weapons, the DPRK has been the subject of multiple *UN Security Council Resolutions*, namely Resolutions 1718 (2006), 1874 (2009), 2087 (2013), and 2094 (2013). By imposing sanctions, and limiting financial access for nuclear research, the Council attempted to halt the DPRK's progress. These resolutions are legally binding to all member states of the UN. According to resolution 2094 of the UN Security Council, the sanctions entail a ban on the provision of financial services or other assets, including bulk cash that could contribute to prohibited programs or activities, or to the evasion of sanctions. Yet the wages of and institutional fees paid by DPRK workers are being channelled into Pyongyang in the form of bulk cash. These funds undermine international sanctions against the DPRK and facilitate the prohibited activities that they are meant to prevent, such as nuclear research.

As a result, member states of the UN are violating resolution 2094 when enterprises in their countries hire workers from the DPRK and do not pay them directly.

In addition, the lack of protection for DPRK citizens working overseas clearly violates labour standards set forth by the International Labour Organization (ILO). The conditions endured by the DPRK overseas labourers violate Articles 13, 14, 15, 16, and 17 of ILO Convention 295, known as the Forced Labour Convention, which aims to "suppress the use of forced or compulsory labour in all its forms."

While the DPRK is not a member of the ILO itself, nearly all the countries that employ migrant workers from the DPRK are. As such, it is their responsibility to ensure that those working within their borders enjoy standards of labour of the level required by the various ILO conventions.

Moreover, the workers are safeguarded by the ten UN core international human rights instruments--applicable to any person regardless of nationality--including International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention against Torture and Other Inhuman or Degrading Treatment or Punishment (CAT); and International Convention for the Protection of All Persons from Enforced Disappearances (CPED) and their respective optional protocols.

The conditions in North Korean labour camps abroad need immediate international attention and intervention to ensure North Korean labourers' rights are upheld in accordance with international labour and human rights laws.

Workers from the DPRK Abroad

The DPRK sends around 100,000 North Koreans to work in manual labour industries, such as mining, logging, textiles, and construction, in an estimated 16 countries through bilateral agreements.

Working abroad is voluntary for citizens of the DPRK and is viewed as a desirable opportunity to earn money. As such, the application process is extremely competitive and both a high-ascribed status and bribery are often necessary to be considered. In order to prevent labourers from defecting while abroad, applicants are screened according to three primary conditions: age, family and loyalty. Immediate family (i.e. spouses and children) serve as collateral to incentivize the obedience of labourers while abroad. An individual's political orientation toward the state based on their ascribed status determines their eligibility and ease through which they may apply to work abroad. Additionally, bribes are commonly used to be considered and to accelerate the process. Once applicants are chosen to work abroad they are required to complete physical examinations and paperwork. They must also attend education classes to prepare them for the experience. Most of the content is political and designed to reinforce the significance of the state political ideology of the DPRK.

DPRK labourers agree to work abroad for a certain amount of time so that they can earn an income. Yet they frequently do not receive all or any of their wages, incorporating them into a system where they are forced to provide free labour. According to defector testimonies, it is common to earn little to no income from employers. Room and board expenses and a labyrinth of bureaucratic and governmental fees designed to channel funds back to Pyongyang diminish the few tangible profits that labourers may receive while abroad. Many defectors stated that they never received any of their wages whatsoever while abroad or even upon their return to the DPRK.

Labourers are cheated out of their wages with institutional fees such as the National Program Fee mentioned by five defectors who laboured in Russia. Defectors recalled that in addition to the National Program Fee there was a loyalty fund that they had to observe twice a year.

The working and living conditions of overseas workers depend on a variety of circumstances such as the type of industry they are working in, their rank, and the country where they are sent. This also applies to how basic needs are met. Labourers typically have poor housing and limited access to healthcare.

Sufficient medical support is tenuous at best for labourers. Medical treatment must be paid independently if an injury occurs and wages are lost for the time taken off. If serious accidents occur, such as frostbite, the affected will be forced to return to the DPRK. They would then be obligated to declare it was their own fault for the injury. Only in the event of a labourer's death is their family eligible for compensation.

Pyongyang has several measures in place to perpetuate its control over DPRK labourers working abroad. Workers are deprived of identification documents to prevent their defection, while undercover National Security Agency (NSA) agents are placed among labourers to identify potential defectors, and to ensure that there is no exchange of unfavourable comments about their country and their leader—whether among the workers themselves, or with outsiders.

The DPRK also operates prisons within countries hosting DPRK labourers. These prisons are managed by the NSA and their purpose is not to detain prisoners but to interrogate them and decide if they should be returned to their work sites or repatriated back to the DPRK.

Recommendations

PSCORE urges:

- The Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea to:
 - o Commission a report of the working conditions for DPRK migrant workers.
 - o Investigate member states that are collaborating with the DPRK government in violation of international labour and human rights laws and failing to protect the rights of DPRK, migrant workers.
 - o Enforce additional enforcement measures on countries that break international covenants and treaties.
- Member States to:
 - o Ensure that the workers are able to retain most of their wages as disposable income.
 - o Safeguard the right of the DPRK labourers to work under the same conditions as local workers

- o Implement routine inspection of all working sites in all industries, including physical examinations as well as working safety inspections.
 - o Ensure that any detained persons are allowed trial
 - o Close all detainment centres or any area where foreign authority is more prominent than local authority.
 - Companies to:
 - o See that individuals sign contracts and receive wages directly.
 - o Place safety protocols in dangerous working areas to ensure the least harm to workers.
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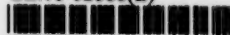
Human rights situations that require the Council's attention

Written statement* submitted by the International Fellowship of Reconciliation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

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Western Sahara - time to resolve status

In 1963, the Western Sahara, then the colony Spanish Sahara, was included in the list prepared by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.¹ Three years later, the General Assembly passed a resolution which invited "the administering Power to determine at the earliest possible date, in conformity with the aspirations of the indigenous people of Spanish Sahara, (...) the procedures for the holding of a referendum under United Nations auspices."²

On 31st October 1975 Morocco and Mauritania invaded the Western Sahara, driving the native Sahrawi people from their homes by force, including the use of napalm.³ On 26th February of the following year, Spain, the former colonist and the recognised Administering Power, informed the Secretary-General that it had terminated its presence in the territory and renounced any international responsibility for its administration. Morocco annexed the northern two-thirds of the territory; and in 1979 added the part previously occupied by Mauritania. However the annexation has not been internationally recognised and Morocco therefore does not enjoy the legal status of Administering Power.

In 1991, the United Nations brokered a ceasefire between Morocco and the Polisario Front (Popular Front for the Liberation of the Saguia el Hamra and Rio de Oro) liberation movement and agreed to organise a referendum in which the Sahrawi people could vote on the future of Western Sahara. Because of disputes about eligibility to vote, this referendum has never taken place.

Of the territories on the 1963 list, only the Western Sahara is still not self-governing. Is it the last colony in Africa?

The International Fellowship of Reconciliation calls upon all involved parties to expedite the holding of a referendum which will enable the Sahrawi people to decide the future of their homeland.



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Written statement* submitted by the Association for Progressive Communications (APC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in
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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).



Freedom of expression in the context of religion

Freedom of expression and freedom of religion are internationally guaranteed, interrelated, interdependent and mutually reinforcing rights to be enjoyed by all individuals without any form of discrimination. Yet, freedom of religion has often been pitted against freedom of expression, especially as fears of violent extremism and xenophobia have spread in recent times, resulting in violations of both rights. The Association for Progressive Communications and Bytes for All, Pakistan welcome the report of the Special Rapporteur on freedom of religion or belief, which rejects the conflict between the two rights and instead highlights their positive interrelatedness and mutual reinforcement.

The Special Rapporteur's report comes at a critical time, when states, in particular in Asia, have enacted multiple legislations on hate speech, incitement, "blasphemy" and "defamation of religion", in the name of "protecting religion or religious sensitivities", which have curtailed legitimate expression protected under international law, including religious expression, and institutionalised discrimination against specific religions, faiths and believers. These provisions transcend traditional penal legislations and have found a place in other laws governing the internet, freedom of association, freedom of assembly and artistic expression.

Blasphemy provisions in countries such as Pakistan, Malaysia and Indonesia are used selectively to shut down dissent and target minorities. The recent amendment to the Sedition Act in Malaysia to include religion within the purview of sedition compounds the difficulties faced by individuals in their expression of dissent. The Information and Communication Technologies Act of Bangladesh and the Prevention of Electronic Crimes Bill in Pakistan have included specific provisions relating to insulting religions in their legislations governing expression on the internet. These are specifically used to target bloggers and persons expressing themselves in online spaces.

As such, these provisions are opposed to the fundamental nature of freedom of expression and pose a threat to freedom of religion as well. Often these provisions are vaguely drafted and used arbitrarily and in a selective manner. Proposing changes to these laws or holding legal or academic discussion pertaining to these laws has become a grave and dangerous challenge for civil society.

As the Jakarta Recommendations on Freedom of Expression in the Context of Religion¹ note, "Violations of freedom of expression in the context of religion are on the rise in South and Southeast Asia. These include violations of: freedom of expression in the name of 'protecting religion and religious sensitivities'; expression of religious freedom and of the expression of belief (or non-belief); expression of sexual and gender identity to purportedly 'protect religious sensitivities'; and the incitement to hatred on the basis of religion, resulting in violence and discrimination on the basis of religion, faith or belief and against individuals speaking up for freedom of expression or freedom of religion, belief and faith."

These threats disproportionately impact persons exercising and defending their freedom of religious expression, minorities, women, sexual minorities, media, journalists, opposition parties, artists, authors, youth groups, atheists, moderate voices, persons not belonging to state religions, migrant workers, internet users, lawyers, academics and HRDs.

This joint written statement addresses two concerning trends: threats against women and sexual minorities, and threats against freedom of expression online in the context of religion.

¹ The Jakarta Recommendations are the outcome of discussions at a regional consultation on "Expression, Opinion and Religious Freedoms in Asia", held in Jakarta, Indonesia on 3-5 June 2015. Over 140 people, comprised of experts, including the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, as well as human rights defenders and civil society activists from across Asia, participated in the regional consultation. Available at <http://www.freedomofexpression.asia/jakarta-recommendations>

Women and sexual minorities

Religion is one of several tools in society to control women and their expression. Women and their bodies often become specific targets for religious groups to exercise control and reinforce power dynamics. Religion, morality, culture, social propriety and decency are used interchangeably and in concurrence to justify restrictions of this nature on women. There are many forms in which religiously based intolerance manifests, including attacks on women for the way they dress, their life choices, expectations of piety and for voicing their opinions.

Women often disproportionately bear the burdens of upholding the religious, cultural and moral values of a particular society. As such, they can face additional risk of attacks for being perceived to violate a particular religious, cultural or moral norm. This is especially true in the case of issues related to bodily autonomy and sexuality. For example, the UNGA Resolution on Protecting Women Human Rights Defenders noted.² Religious, cultural or moral norms can also be used as methods to attack and threaten women online. In some contexts, this can put women especially at risk to physical violence, where the line between online threats and the likelihood of offline occurrence is fine. Access to justice can also be challenging when the state or law enforcement prioritises prosecution of offences against religion, culture and morality rather than online abuse and violence.³

Expression of women in relation to their religion remains largely restricted. Places of worship in India such as the Sabarimala temple⁴ and Shani Shingnapur⁵ prohibit entry of women and the Charninar⁶ prohibits entry of single women. Women during their menstrual period are generally prohibited entry to most temples.

In Indonesia, fatwas are issued and provincial laws are used to control the way in which women dress and the professions they may engage in. In Malaysia, the Selangor Islamic Religious Council (MAIS) gazetted a fatwa declaring SIS Forum (Malaysia), otherwise known as the Muslim women's rights group Sisters in Islam (SIS), and any other similar "individuals, organisations or institutions" as deviant. The fatwa called for any publications deemed "liberal and plural" to be banned and seized.⁷

Attacks against women human rights defenders often take violent forms, threatening their safety and life. In 2015 Sabeen Mahmood,⁸ a popular voice against intolerance, was gunned down in Pakistan. In India, Kavita Krishnan⁹ and Meena Kandasamy,¹⁰ known advocates for women's rights, continue to be abused in online spaces, receiving death and rape threats. Research on targeted online harassment faced by women who discuss issues of public interest in India has linked this harassment to the religious right.¹¹

² See A/RES/68/181: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/181

³ See "Best Practice Forum JP Draft on Online Abuse and Gender Based Violence Against Women" page 17, <http://www.intgovforum.org/cms/documents/best-practice-forums/539-draft-jp-bpf-women>

⁴ See <http://indianexpress.com/article/india/india-news-india/sc-to-examine-issue-of-womens-entry-in-sabarimala-temple>

⁵ See <http://indianexpress.com/article/explained/shani-shingnapur-mandir-400-years-on-no-temple-for-women>

⁶ See <http://www.deccanchronicle.com/lifestyle/viral-and-trending/050216/no-entry-for-single-women-in-charminar.html> Advocate Naushad Ahmed Khan, fighting a case against such prescriptions, had to seek security on account of threats received in 2016. Women-centric movies are being subjected to excessive censorship in India, where differential standards are applied on the basis of decency and morality

⁷ See <http://www.thestar.com.my/news/nation/2014/10/31/sisters-in-islam-files-for-judicial-review-on-fatwa> In addition, in Sri Lanka, writer Sharmila Seyyid had to leave the country after violent threats from Muslim groups relating to her writings and poems that challenged the traditional role of Muslim women. She and her family have been under constant threat and in 2015 these attacks intensified especially over the internet. See <http://www.thenewsminute.com/article/exclusive-sri-lankan-author-sharmila-seyyid-talks-about-being-forced-out-islamic>

⁸ See <http://www.aljazeera.com/news/2015/04/pakistani-rights-activist-sabeen-mahmud-killed-150424210251526.html>

⁹ See <http://www.firstpost.com/living/rape-threats-on-rediff-kavita-krishnan-speaks-out-727395.html>

¹⁰ See <http://www.bbc.com/news/world-asia-india-22378366>

¹¹ See research by Internet Democracy Project. (2013). *Don't Let It Stand! An Exploratory Study of Women and Verbal Online Abuse in India*.

The use of religion as a justification to control women is more than a violation of their freedom of expression; it leads to other human rights violations, including the right to life and security, freedom of movement, privacy, non-discrimination, and the right to participate fully as a member of society, among others. It also constitutes a violation of their freedom of religion.

As the Special Rapporteur's report notes, "Rights to freedom typically have their 'positive' and 'negative' sides: they entitle individuals to perform certain acts or not to do so. Both aspects are equally important." Agency to decide whether and how to communicate one's religion is essential to the exercise of the right. According to the Special Rapporteur, "The right to withdraw or to remain reserved is the indispensable flipside of the right to engage in all aspects of free communication. This also applies to persons who belong to a group, such as members of religious or belief minorities."¹²

Individuals who identify as lesbian, gay, bisexual, transgender and intersex and groups working on sexual rights are often deemed to be deviants and are consistently attacked on the basis of religion. Under international human rights norms, sexual expression is protected under the right to freedom of expression.¹³

Anti-homosexual legislation across these states is used in tandem against sexual minorities, and activists advocating for legal reforms in countries such as India, Pakistan and Malaysia receive death threats from religious extremist groups as well as supporters of such groups. Transgender women in Malaysia face harassment from police and religious authorities for contravening personal religious laws related to prohibition of cross-dressing. Although this was seen as a violation of their right to freedom of expression, as well as their right to mobility and safety in the Court of Appeal, the decision was unfortunately overturned in the Federal Court.

Online threats to freedom of expression in the context of religion

Another disturbing trend that warrants further attention is the increasing degree to which online spaces are becoming areas for violations of rights in the context of religion. Violations targeted against individuals and groups for exercising their rights of freedom of expression in the context of religion are becoming increasingly commonplace online. Online expression has come under attack particularly in the name of national security or to protect religion. Citizens across the region are increasingly being subjected to surveillance with little oversight or accountability. Similarly, any expression that touches upon religion which is not in line with the majority view is targeted as outraging religious feelings. As the HRC affirmed, the same rights that people have offline must also be protected online.¹⁴

State and non-state actors are increasingly using the digital sphere to police speech and enact violence, forcing bloggers, activists and internet users more broadly to withdraw from these spaces, leading to a chilling effect.

In India, a Muslim youth was killed in 2014 for his post on Facebook.¹⁵ Two women were arrested in 2014 for their post on the death of a religiously aligned political figure, using the unconstitutional provision Section 66A of the Information and Communication Technologies Act, which was subsequently struck down by the Supreme Court.¹⁶

Several bloggers have been targeted, branded as atheists and anti-nationals and killed over the last few years in Bangladesh. In 2015 four writer/bloggers¹⁷ were killed for their views on Islam and other religions.¹⁸ Many "kill lists" have appeared with the names of bloggers on them.

In Pakistan, attacks on activists and journalists have now spread to the internet, where people can face threats for their activities and expression online, causing them to feel insecure and indulge in self-censorship. The internet is also a

¹² See A/HRC/31/18 http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/31/18

¹³ This includes the right to freely express one's sexual orientation or gender identity, as well as the freedom to seek, receive and impart information on issues related to sexual orientation or gender identity. See Human Rights Committee Communication No. 1932/2010 (30 November, 2012) <http://www2.ohchr.org/english/bodies/hrc/docs/CaseLaw/CCPR-C-106-D-1932-2010.doc>

¹⁴ See A/HRC/RES/20/8 http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/20/8

¹⁵ See <http://www.firstpost.com/india/pune-muslim-techie-killed-by-rightwing-mob-over-morphed-fb-posts-1555709.html>

¹⁶ See <http://indiatoday.intoday.in/story/2-mumbai-girls-in-jail-for-tweet-against-bal-thackeray/1/229846.html>

¹⁷ Faisal Arefin Dipon, Avijit Roy, Oyasiqur Rahman and Ananta Bijoy

¹⁸ See <http://www.aljazeera.com/news/2015/08/qa-bloggers-killed-bangladesh-150813081558774.html>

medium through which hate content is spread. Often this content is misogynistic and targets minorities. The space for moderate expression has considerably shrunk and the dangers facing free expression are real and violent. On the other hand, YouTube was banned until recently and still remains highly filtered on account of religion in Pakistan.¹⁹

In Malaysia, restrictive laws and practices that restricted free expression offline are used to stifle expression online too. For example, online threats against women, mostly in the form of rape threats, are commonplace. Women have been threatened because they were not following the norms prescribed for good Muslim women. For instance, in March 2015 a female presenter from the radio station BFM was investigated for an online video which questioned the relevance of implementing the religious penal law better known as the *Hudud* Law in Kelantan. She received death and rape threats which were not addressed; instead she had to apologise and clarify that her comments concerned politics and not religion.²⁰

It is critical that online threats not be considered an online phenomenon, as it can take little time for online threats to translate into offline threats. Many individuals who became targets of malicious online campaigns were also harassed through threatening calls and other such tactics in the offline world as well.

Recommendations

We encourage member states to implement the recommendations made by the Special Rapporteur as well as the Jakarta Recommendations, which call on states to ensure the protection of freedom of expression in the context of religion for all individuals and all communities at all times, by implementing laws, and accompanying policy measures relating to freedom of expression in the context of religion in a non-discriminatory manner, especially in relation to women and sexual minorities.

We call on the Human Rights Council to:

- Increase focus on, and resources allocated to, the human rights issues and violations at the intersection of the freedoms of expression and religion, particularly in relation to women and persons who face discrimination on the basis of their sexuality and gender identity, and in relation to online spaces.
- Follow up and assess the implementation of Resolution 16/18 and the Rabat Action Plan and include aspects about gendered violations in relation to religion and violations in online spaces.
- Develop specific indicators for states with regard to their duty to protect freedom of expression in the context of religion, particularly in relation to women, sexual minorities and expression online.

Bytes for All, Pakistan, an NGO without consultative status, also shares the views expressed in this statement.

¹⁹ See <http://www.geo.tv/latest/100388-PTA-officially-unblocks-YouTube-in-Pakistan>

²⁰ See <http://www.themalaysianinsider.com/malaysia/article/bfm-takes-down-hudud-video-after-death-threats>